

BILL ANALYSIS

Senate Research Center
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S.B. 37
By: Creighton
Education K-16
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 37 seeks to address the unchecked authority of faculty senates. The proposal also seeks to bolster the authority, and further define obligations of, university governing boards on matters such as final approval on the hiring of administrative positions and on matters related to academic policies. It proposes the creation of an "Office of Excellence in Higher Education," whose responsibility is to maintain transparency between public institutions of higher education, legislators, and the Texas taxpayer, and to uphold institutions' compliance with state law.

As proposed, S.B. 37 amends current law relating to the governance of public institutions of higher education, including review of curriculum and certain degree and certificate programs, the powers and duties of a faculty council or senate, training for members of the governing board, and the establishment of the Office of Excellence in Higher Education.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the faculty council and senate in SECTION 3 (Section 51.3522, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter F, Chapter 51, Education Code, by adding Section 51.315, as follows:

Sec. 51.315. GENERAL EDUCATION REVIEW COMMITTEE. (a) Defines "core curriculum" and "institution of higher education."

(b) Requires the governing board of each institution of higher education to appoint a general education review committee at each institution of higher education under the governing board's control and management to:

(1) annually review the core curriculum at the institution; and

(2) make recommendations regarding maintaining or eliminating courses in the institution's core curriculum.

(c) Authorizes the governing board of the institution of higher education, in appointing the members of the general education review committee under Subsection (b), to consider recommendations from the institution's president.

(d) Authorizes members of an institution of higher education's general education review committee to include local industry partners and tenured faculty of the institution.

(e) Requires the general education review committee of an institution of higher education, in reviewing the institution's core curriculum under Subsection (b)(1), to ensure courses in the curriculum meet certain requirements.

(f) Requires the general education review committee of an institution of higher education to:

(1) identify competencies in addition to successful completion of the core curriculum that the institution is required to require students to demonstrate; and

(2) make recommendations to maintain or eliminate additional competencies required by the institution in accordance with Subdivision (1).

(g) Requires the governing board of an institution of higher education to approve or deny on an individual basis any recommendation made by the institution's general education review committee under Subsection (b)(2).

(h) Requires an institution of higher education to make recommendations made by the institution's general education review committee publicly available on the institution's Internet website for at least 30 business days before the date of a meeting at which the institution's governing board intends to consider the recommendations.

(i) Requires the governing board of each institution of higher education, not later than September 1 of each year, to certify the governing board's compliance with this section to the Office of Excellence in Higher Education established under Chapter 454, Government Code.

(j) Prohibits an institution of higher education from spending money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and the Texas Higher Education Coordinating Board (THECB) a report certifying the governing board's compliance with this section during the preceding state fiscal year.

SECTION 2. Amends Section 51.352, Education Code, by amending Subsection (d) and adding Subsections (g), (h), (i), and (j), as follows:

(d) Requires each governing board, in addition to powers and duties specifically granted by this code or other law, to:

(1)-(2) makes no changes to these subdivisions;

(3) appoint the president or other chief executive officer of each institution under the board's control and management, rather than appoint the president or other chief executive officer of each institution under the board's control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals;

(4) approve or deny the hiring of an individual for the position of vice president, provost, associate or assistant provost, dean, or a similar leadership position by each institution under the board's control and management;

(5) regularly evaluate the chief executive officer, president, and each individual who holds a leadership position described by Subdivision (4) at each institution under the board's control and management to assist the individual in achieving certain performance goals;

(6) creates this subdivision from existing text and makes no further changes; and

(7) redesignates existing Subdivision (5) as Subdivision (7) and makes no further changes.

(g) Authorizes the governing board of an institution of higher education to overturn any decision made by the administration of a campus under the board's control and management.

(h) Requires the governing board of an institution of higher education to post on the institution's Internet website notice of any meeting at which the board will consider finalists for a position described by Subsection (d)(4) at least 30 business days before the date of the meeting. Requires that the notice include the curriculum vitae for each individual under consideration for the position at the meeting that lists the individual's postsecondary education, teaching experience, significant professional publications, and professional or academic association memberships.

(i) Prohibits an institution of higher education from spending money appropriated to the institution for a state fiscal year until the governing board of the institution submits to the legislature and THECB a report certifying the board's compliance with Subsections (d)(2) (relating to requiring each governing board to appoint the chancellor or other chief executive officer of the system), (3), (4), (5), (6) (relating to requiring each governing board to set campus admission standards consistent with the role and mission of the institution), and (7) (relating to requiring each governing board to ensure that its formal position on matters of importance to the institutions under its governance is made clear to THECB) during the preceding state fiscal year.

(j) Requires the governing board of each institution of higher education to annually submit to the governor, the lieutenant governor, the speaker of the house of representatives, and each member of the legislature a report regarding certain decisions made by the governing board for the applicable academic year.

SECTION 3. Amends Subchapter G, Chapter 51, Education Code, by adding Sections 51.3522, 51.3523, and 51.3524, as follows:

Sec. 51.3522. FACULTY COUNCIL OR SENATE. (a) Defines "faculty council or senate."

(b) Provides that only the governing board of an institution of higher education is authorized to establish a faculty council or senate at the institution. Requires the governing board, before establishing the faculty council or senate, to adopt a policy governing the election of the faculty council's or senate's members that meets certain requirements.

(c) Provides that a faculty council or senate is advisory only. Requires a faculty council or senate to represent the entire faculty of the institution of higher education and advise the institution administration and any system administration regarding matters related to the general welfare of the institution. Prohibits a faculty council or senate from publishing a report on any matter not directly related to the council's or senate's duties.

(d) Requires the governing board of the institution of higher education, the institution administration, and any system administration, before the adoption or implementation of each proposal or recommendation made by the faculty council or senate, to review the proposal or recommendation. Requires the institution, under the direction of the institution's governing board, to have final decision-making authority regarding the adoption or implementation of a proposal or recommendation made by the council or senate.

(e) Provides that service on the faculty council or senate is an additional duty of the faculty member's employment. Provides that members of the faculty council or senate are not entitled to compensation or reimbursement of expenses.

(f) Provides that a member of the faculty council or senate serves a one-year term and is authorized to be reappointed only after the fourth anniversary of the member's most recent term of service.

(g) Requires the president of the institution of higher education, with the advice and consent of the governing board, to appoint a presiding officer, associate presiding officer, and secretary from the members of the faculty council or senate.

(h) Requires the presiding officer appointed under Subsection (g) to preside over meetings of the faculty council or senate and represent the council or senate in official communications with the institution administration and any system administration.

(i) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to a faculty council or senate.

(j) Provides that Chapter 551 (Open Meetings), Government Code, applies to a faculty council or senate. Authorizes a faculty council or senate to meet by telephone conference call or video conference call subject to the requirements of that chapter.

(k) Requires the faculty council or senate to broadcast over the Internet live video and audio, as applicable, of each open meeting of the council or senate if more than 50 percent of the members of the council or senate are in attendance.

(l) Requires the faculty council or senate to adopt rules for establishing a quorum.

(m) Requires that certain information be made available to the public on the institution of higher education's Internet website not later than the seventh day before a meeting of the faculty council or senate, including an agenda for the meeting with sufficient detail to indicate the items on which final action is contemplated, and any curriculum proposals reviewed by the council or senate that will be discussed or voted on at the meeting.

(n) Requires that the names of the members in attendance be recorded at a meeting in which the faculty council or senate conducts business related to a vote of no confidence regarding an institution or system administrator or policies related to curriculum and academic standards.

Sec. 51.3523. **ADDITIONAL RESPONSIBILITIES FOR MEMBERS OF GOVERNING BOARD.** (a) Requires the governing board of an institution of higher education to approve or deny certain recommendation and postings on an individual basis.

(b) Requires the governing board of an institution of higher education to post on the institution's Internet website notice of each meeting at which a posting or other advertisement for a tenured faculty position in a field other than science, technology, engineering, or mathematics will be considered at least seven business days before the meeting.

Sec. 51.3524. **INFORMATION FOR GOVERNING BOARD APPOINTEES.** Requires the governor, in appointing members to the governing board of an institution of higher education, to provide to each applicant for appointment certain detailed written information and consider imposing certain strict eligibility requirements.

SECTION 4. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.989, as follows:

Sec. 51.989. **REVIEW OF MINOR DEGREE AND CERTIFICATE PROGRAMS.** (a) Defines "governing board" and "institution of higher education."

(b) Requires the president and provost of an institution of higher education to jointly develop a process for reviewing minor degree and certificate programs offered by the institution to identify programs with low enrollment that may require consolidation or elimination.

(c) Requires that the criteria for review under Subsection (b) include certain minimum amounts of students for different programs.

(d) Provides that a minor degree or certificate program that has operated less than six years at the time the president and provost conduct the review under this section is exempt from that review.

(e) Requires the governing board of an institution of higher education to approve or deny any decision made by the president or provost of the institution to consolidate or eliminate a minor degree or certificate program as a result of the review conducted under this section.

(f) Requires the president and provost of an institution of higher education to conduct a review under this section once every four years.

SECTION 5. Amends Section 61.084, Education Code, by amending Subsection (d) and adding Subsection (i), as follows:

(d) Requires that topics covered by the training program on the official role and duties of the members of governing boards include:

(1)-(8) makes no changes to these subdivisions;

(9) makes a nonsubstantive change to this subdivision;

(10) an overview of the legislature, the General Appropriations Act, and the state budget as those topics relate to the responsibilities of the governing board;

(11) an emphasis on the commitment the members of the governing board are making to the institutions of higher education under the board's control and management and, if applicable, the university system, this state, and taxpayers of this state; and

(12) creates this subdivision from existing text and makes no further changes.

(i) Requires a member of a governing board, on completion of a training program under this section, to provide a sworn statement affirming the member's understanding of the member's duties and responsibilities.

SECTION 6. Amends Section 51.942(c-3), Education Code, as follows:

(c-3) Requires that the policies and procedures adopted by the governing board under Subsection (c-1) (relating to requiring each governing board of an institution of higher education to adopt policies and procedures regarding tenure), in addition to any other provisions adopted by the governing board, include provisions providing certain rules, including that a faculty member is prohibited from being involved in decision-making in a grievance review process or faculty discipline process.

SECTION 7. Amends Subtitle D, Title 4, Government Code, by adding Chapter 454, as follows:

CHAPTER 454. OFFICE OF EXCELLENCE IN HIGHER EDUCATION

Sec. 454.001. DEFINITIONS. Defines "institution of higher education" and "office."

Sec. 454.002. ESTABLISHMENT. (a) Provides that the Office of Excellence in Higher Education (office) is established to address matters of academic discourse at institutions of higher education in this state.

(b) Provides that the office is administratively attached to THECB.

Sec. 454.003. DIRECTOR. Provides that the director of the office is appointed by the governor with the advice and consent of the senate and serves at the pleasure of the governor.

Sec. 454.004. POWERS AND DUTIES. (a) Requires the office to serve as an intermediary between the legislature, the public, and institutions of higher education, including by answering questions from the public and the legislature regarding an institution of higher education's obligations to students, faculty, employees, and the public.

(b) Requires the office to be responsible for receiving and, as necessary, investigating reports of noncompliance by institutions of higher education with state law or institution policy. Authorizes the office, in investigating a report of noncompliance regarding an institution received under this section, to request information from the institution or the university system in which the institution is a component, if applicable.

(c) Requires an institution of higher education to respond in writing to the office's written request for information not later than the 30th day after the date the institution receives the request. Requires the office to report an institution that fails to timely respond to a request under this subsection to the governor, the lieutenant governor, and the chair of each standing committee of the legislature with primary jurisdiction over higher education.

(d) Requires the office, based on findings related to an investigation under this section, to submit to the attorney general and the governing board of an institution of higher education that is the subject of an investigation under this section a report that includes the office's final determination regarding the investigation and recommendations for action based on the conclusions of the investigation.

(e) Authorizes the office to require cooperation from an institution of higher education in an investigation under this section and publicize a violation of law by an institution of higher education that is confirmed by an investigation.

Sec. 454.005. ANNUAL REPORT. Requires the office to annually submit a report to the governor, the lieutenant governor, the attorney general, and the chair of each standing committee of the legislature with jurisdiction over higher education regarding:

- (1) the number of reports of noncompliance received by the office;
- (2) the number of investigations conducted by the office; and
- (3) a summary of the results of investigations described by Subdivision (2).

SECTION 8. (a) Provides that, except as provided by Subsection (b) of this section, this Act applies beginning with the 2025–2026 school year.

(b) Provides that Sections 51.315(j) and 51.352(i), Education Code, as added by this Act, apply beginning with money appropriated to a public institution of higher education for the state fiscal year beginning September 1, 2026.

SECTION 9. Requires each general education review committee established at a public institution of higher education in accordance with Section 51.315, Education Code, as added by this Act, to provide the committee's initial recommendations not later than June 1, 2027.

SECTION 10. Provides that a faculty council or senate established at a public institution of higher education before the effective date of this Act is abolished on October 1, 2025, unless the faculty council or senate was established in the manner prescribed by Section 51.3522, Education Code, as added by this Act, or the faculty council's or senate's continuation is ratified by the institution's governing board before that date based on a finding by the governing board that the faculty council or senate meets the requirements of any policy adopted by the governing board under that section..

SECTION 11. Effective date: upon passage or September 1, 2025.